IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CRIMINAL WRIT PETITION NO. 1623 OF 2006.**

Shri Lalit C. Jain ..Petitioner
V/s
Shri Jitendra S. Gupta
& another ..Respondents.

Mr. S.K. Joshi, Advocate for the petitioner.

Mrs. V.R. Bhosale, APP for the State.

**CORAM : J.H. BHATIA, J.**

**DATE : 17TH JANUARY, 2007.**

P.C.

. Heard Mr. S.K. Joshi, the learned Counsel for the petitioner.

2. The petitioner is accused in the Criminal Case No. 2370/2003 under Section 138 of Negotiable Instruments Act, before J.M.F.C, Bhiwandi on a complaint lodged by respondent No.1 Jitendra Gupta. After completion of prosecution evidence, the statement of accused/present petitioner came to be recorded in September, 2005. He was given an opportunity to give defence evidence, if he so desired. He requested the Court to issue summons to one witness but later on the

petitioner refused to examine that witness. On 3rd April, 2006, the petitioner made an application to issue summons to four persons viz. (1) Branch Manager of Pratap Co-opertive Bank Ltd., Mumbai (2) Post Master, Bhiwandi (3) Nisar Shaikh (4) Branch Manager, Abhudya Co-operative Bank Ltd., Bhiwandi, without stating for what purpose these persons were to be examined. The application does not reveal that certain documents were to be called from the banks or from the post office. The application was made almost seven months after statement of the accused under section 313 of Cr.P.C. was recorded. The learned Magistrate observed that all effort of the accused was just to delay the proceeding and therefore, the application came to be rejected. In view of the circumstances noted above, I find no reason to disagree with the learned Magistrate. The petition is devoid of any merits.

. Therefore, the petition stands dismissed summarily.

**(J.H. BHATIA, J.)**